

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF GEORGE AND) APPEAL NO. 07-A-2262
JOAN BERGDORF from the decision of the Board of) FINAL DECISION
Equalization of Bonner County for tax year 2007.) AND ORDER

RURAL RESIDENTIAL PROPERTY APPEAL

THIS MATTER came on for hearing October 17, 2007, in Sandpoint, Idaho before Board Member Linda S. Pike. Board Members Lyle R. Cobbs and David E. Kinghorn participated in this decision. Appellant George and Joan Bergdorf appeared. Assessor Jerry Clemons and Residential Supervisor Jeri Peterson appeared for Respondent Bonner County. This appeal is taken from a decision of the Bonner County Board of Equalization (BOE) modifying the protest of the valuation for taxing purposes of property described as Parcel No. RP55N04W090003A.

The issue on appeal is the market value of a rural residential property.

The decision of the Bonner County Board of Equalization is reversed.

FINDINGS OF FACT

The total assessed land value is \$32,805, and the total improvements' valuation is \$402,774, for a total assessment of \$435,579. The land value includes land designated as agricultural, plus a one-acre homesite. The improvements include a residence and other improvements that were attached to the agricultural portion of subject's land. Appellant requests the residential improvements' value be reduced to \$300,000 with the other improvements and the total land value to remain unchanged, resulting in a total assessed value of \$340,410.

The subject property is a 20-acre parcel located near Priest River, Idaho. Attached is a 2,727 square foot Victorian-style residence built approximately fifteen years ago. Also on the property are some outbuildings used in the agricultural operation. The land (excluding the homesite) currently receives an agricultural exemption and is not being challenged. The sole

issue on appeal here is the value of the residence.

Appellants took issue with the approximately \$200,000 assessment increase over the prior year. The residence was originally assessed at \$431,147, however, was reduced to \$395,169 at BOE.

Appellants began by noting subject's modest interior. Pictures were provided to illustrate subject's interior finish and fixtures were average (i.e. no hardwood floors, no custom cabinets, etc.). Respondent agreed subject's interior was modest.

Appellants then submitted insurance coverage information for subject. It was shown for the period between March 2006 and April 2007 subject was insured for \$302,000. After receiving the initial assessment notice, Appellants contacted their insurance carrier to ensure subject was adequately insured. The insurance company indicated subject's replacement cost was indeed \$302,000 and informed Appellants no additional coverage was needed.

Appellants also submitted a letter from a local builder who indicated he could rebuild subject for \$120 per square foot or \$327,240.

Appellants then presented a number of sales in subject's area. The sales information was obtained from several local realtors. Four (4) sales occurred in 2007 and eight (8) took place during 2006. The 2006 sales ranged in price from \$210,000 to \$340,000 for both the lots and improvements. The lot sizes ranged between 1.02 and 24 acres. The residences had between 1,392 and 2,848 finished above-grade square feet. Most included sizeable areas of finished below-grade space, which Respondent contended could not be considered because subject did not have such space.

Respondent challenged the reference to subject's insurance coverage. It was noted the \$302,000 coverage was simply the replacement cost. Respondent argued replacement cost

does not equal market value; meaning subject's insurance coverage would not be a good indication of value.

Respondent then disputed the letter from the local builder who reported subject could be rebuilt for \$120 per square foot. Respondent questioned whether the estimate included the cost to build only the above-ground portion or if it also included the below-ground portion (i.e. foundation, wiring, etc.). Also unclear to Respondent, was whether the builder's profit was built into the estimate.

Respondent also challenged Appellants' sales information. Respondent noted the sales involved residences and lot sizes smaller than subject, so argued the properties were not similar for comparison purposes. Also questioned was the construction quality of the sale properties.

Respondent did not provide specific sales to support subject's assessment. Respondent instead referenced an analysis of sales data concerning residences with similar "quality of construction and depreciation". The analysis revealed an average price of \$164.49 per square foot. Respondent argued subject's original \$158.10 assessed value per square foot indicated subject was valued below the average price the market was willing to pay. Subject's subsequent value reduction by the BOE to \$144.91 per square foot was contended to even further below market value so should thus be upheld by this Board.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

Idaho requires property be assessed at market value for the purposes of property taxation,

as defined in Idaho Code § 63-201 (10):

“Market value” means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing seller, under no compulsion to sell, and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

To this end, the Idaho Supreme Court has recognized three approaches for determining market value.

[T]here are three primary methods of determining market value: the cost approach, in which the value as determined by new cost or market comparison is estimated and reduced by accrued depreciation; the income approach, applicable to "income producing property" in which a capitalization rate is determined from market conditions and applied to net income from the property to determine appraised value; and the market data (comparison method) approach, in which value of the assessed property is ascertained by looking to current open market sales of similar property. *Merris v. Ada County*, 100 Idaho 59, 63, 593 P.2d 394, 398 (1979).

As correctly noted by Respondent, the letter from a local builder stating subject could be rebuilt for \$120 per square foot is not good evidence of subject's value. It is well established that “[c]ost and value are not necessarily synonymous terms” *In re Appeal of C. C. Anderson Stores Co.*, 86 Idaho 249, 253, 384 P.2d 677, 680 (1963). Furthermore, it was not clear whether the quote was simply a cost estimate or if the builder's profit margin was included.

Similarly, the amount of subject's insurance coverage is not recognized as a reliable indicator of value. Again, the \$302,000 insurance coverage is simply the replacement cost, not subject's market value.

On the other hand, the sales provided by Appellants could be considered good value indicators under the market data approach. Property must be valued on January 1 of the applicable tax year, or January 1, 2007 in this case. See Idaho Code § 63-205. As such,

Appellants' 2007 sales cannot be considered in this case.

The 2006 sales, however, can be used to determine subject's market value. The properties sold between \$210,000 and \$340,000, which included land and improvements. The residences ranged in size between 1,392 and 2,848 finished above-grade square feet. All but one property also included sizeable finished below grade areas. Combining the above and below grade finished areas results in nearly all the sale properties being larger than subject. The lot sizes were between 1.02 and 24 acres. Subject is 2,727 square feet situated on 20 acres.

There are some obvious questions of comparability concerning Appellant's sales. Most notably, the lot and residence sizes were widely varied. Also not clear in the record was the quality of the sale properties' construction. Subject's interior was conceded to be average, but the construction was regarded as good. To make things more difficult, both parties acknowledge that subject's Victorian style is unique to the area. As such, neither party was able to produce sales involving similarly-styled homes.

As noted earlier, most of Appellant's sales involved residences with both above and below grade finished living areas. Respondent contended the below grade areas could not be considered for square footage comparisons with subject. While below grade living areas are generally valued less than above grade areas, to say below grade areas cannot even be considered is inaccurate. Below-grade living areas add value to a residence, even if at a lower rate than above-grade living spaces.

Of the eight (8) sales presented by Appellants, only two (2) sold in excess of \$300,000. Of course the sale prices included both land and improvements. Subject's residence is valued at \$395,000, which seems excessive given the sales presented. There are some questions concerning the construction quality of some of the sales compared to subject, but nothing that

risers to the level of discrepancy between the sale prices (land and improvements) and subject's assessed value. Appellants have asked this Board to reduce subject's residential improvement value to \$300,000. Given the information presented, the request does not seem out of line. Placing subject's improvement value at \$300,000 would still leave subject with the highest improvement value. This would account for any differences between subject and the sale properties, as well as, subject's "unique" Victorian construction style.

Respondent did not present any sales or other verifiable information for the Board to consider. Rather, Respondent rested its case on the assertion that a sales study of homes "similar in quality of construction and depreciation" revealed an average price of \$164.49 per square foot. No details concerning the study or the properties examined was submitted or explained. Respondent reasoned subject's \$144.91 per square foot assessed value was below the average price seen in the sales study so should be upheld on that basis. Without more information, this position is insufficiently supported.

The burden is on Appellants to prove to this Board by a preponderance of the evidence that subject is over-valued. *Board of County Comm'rs of Ada County v. Sears, Roebuck & Co.*, 74 Idaho 39, 46-47, 256 P.2d 526, 530 (1953). To that end, Appellants provided information on numerous improved sales that occurred during 2006 (the market data approach to value). Respondent, on the other hand, referred to a sales study which showed the average price-per-square foot of \$ 164.49 for residences similar in construction quality to subject. This rate was simply applied to subject's square footage to support the assessed value. No information regarding how the sales study was conducted or the properties analyzed was disclosed. Given all the information submitted in this matter, the Board is persuaded by Appellants' sales information and finds a value of \$300,000 for subject's residence to be well-supported and

reasonable. Accordingly, we will reverse the decision of the Bonner County Board of Equalization and adopt Appellants' value position.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Bonner County Board of Equalization concerning the subject parcel be, and the same hereby is, reversed lowering the assessed value of subject's residence to \$300,000.

IT IS FURTHER ORDERED that any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from Appellants.

MAILED APRIL 3, 2008